

[Advisory Opinion 1995-21]

December 13, 1995

[Name1 withheld]

Licensure & Regulatory Services, HHS
Rockville, Maryland 20850

RE: Request for Advisory Opinion

Dear [Name1 withheld]:

You have requested an advisory opinion from the Ethics Commission regarding an employee under your supervision. A similar request has been submitted to the State Ethics Commission to address any issues based on the state Ethics Law.

In your letter, you explain that the employee works part-time for your division and conducts inspections and monitoring of group homes for the elderly in Montgomery County, which involves the application of both County and State regulations. You further explain that the employee owns and operates a group home in Howard County. The employee seeks to place her mother in a group home in Montgomery County, and the home she is considering is one of those she has been assigned to inspect and monitor. You have further explained that the home is managed by a company that has four other homes in Montgomery County. For purposes of this analysis under the ethics law, the Commission views all five homes as a single unit, so that a conflict present in one of the homes would carry over to each of the other four homes.

Based upon the information you have provided, the Ethics Commission must advise you that the employee may not inspect or monitor any of the five group homes, because there would be a conflict of interest in doing so. §19A-11 of the Montgomery County Code, as amended. To remedy this situation, the employee could be assigned to inspect and monitor any of the other approximately 40 other group homes run by others in the County. Furthermore, in order to avoid the appearance of impropriety, the Commission has concluded that the notification to the group home provider that a new inspector will be assigned should come from the Department, rather than the employee, and should be issued in advance of the change. With these conditions, there should be no remaining issue under the Ethics Law.

If you have any questions concerning this decision, please do not hesitate to contact the Commission.

Sincerely
[signed]
Jay L. Cohen, Chair
Montgomery County Ethics Commission

cc: Barbara McNally, Executive Secretary
Montgomery County Ethics Commission